

## CHAPTER XXIV—FEDERAL ENERGY REGULATORY COMMISSION

---

<i>Part</i>		<i>Page</i>
3401	Supplemental standards of ethical conduct for employees of the Federal Energy Regulatory Commission .....	662

**PART 3401—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL ENERGY REGULATORY COMMISSION**

Sec.

3401.101 General.

3401.102 Prohibited financial interests.

3401.103 Procedures for accomplishing disqualification.

3401.104 Prior approval for outside employment.

AUTHORITY: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 42 U.S.C. 7171, 7172; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.402(c), 2635.403, 2635.502(e), 2635.604, 2635.803.

SOURCE: 61 FR 43414, Aug. 23, 1996, unless otherwise noted.

**§3401.101 General.**

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Federal Energy Regulatory Commission (Commission) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the standards in 5 CFR part 2635 and this part, employees are subject to the executive branch financial disclosure regulations contained in 5 CFR part 2634, additional regulations on responsibilities and conduct at 5 CFR part 735, and Commission specific provisions contained in 18 CFR part 3c.

**§3401.102 Prohibited financial interests.**

(a) *General prohibition.* Except as provided in paragraphs (b) and (c) of this section, an employee, or the spouse or minor child of an employee, shall not acquire or hold any securities of:

(1) A natural gas company;

(2) An interstate oil pipeline;

(3) A hydroelectric licensee or exemptee;

(4) A public utility;

(5) Any electric utility engaged in the wholesale sale or transmission of electricity or having obtained an interconnection or wheeling order under Part II of the Federal Power Act; or

(6) The parent company of an entity identified in paragraphs (a)(1) through (a)(5) of this section.

(b) *Waiver.* The DAEO may grant a written waiver from this section based on a determination that the waiver is not inconsistent with part 2635 of this title or otherwise prohibited by law and that, under the particular circumstances, application of the provision is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which Commission programs are administered. A waiver under this paragraph may impose appropriate conditions, such as requiring execution of a written disqualification.

(c) *Definitions.* For purposes of this section:

(1) The term *securities* includes all interests in debt or equity instruments. The term includes, without limitation, secured and unsecured bonds, debentures, notes, securitized assets, and commercial paper, as well as all types of preferred and common stock. The term encompasses both current and contingent ownership interests, including any beneficial or legal interest derived from a trust. It extends to any right to acquire any long or short position in such securities and includes, without limitation, interests convertible into such securities, as well as options, rights, warrants, puts, calls and straddles with respect thereto. It does not include an interest in a publicly traded or publicly available mutual fund or other collective investment fund, or in a widely held pension or similar fund, provided that the fund's prospectus does not indicate the objective or practice of concentrating its investments in entities identified in paragraphs (a)(1) through (a)(6) of this section, and the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund.

(2) The term *parent* means a company that possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of an entity identified in paragraphs (a)(1) through (a)(5) of this section.

**§ 3401.103 Procedures for accomplishing disqualification.**

(a) An employee, other than a member of the Commission, who is required, in accordance with 5 CFR 2635.402(c), 2635.502(e), or 2635.604(a), to disqualify himself from participation in a particular matter before the Commission shall provide written notice of disqualification to his supervisor and to the DAEO when he becomes aware of the need to disqualify himself from participation in the matter. This procedure is required notwithstanding the guidance in 5 CFR 2635.402(c)(2), 2635.502(e)(2), and 2635.604(c).

(b) An employee may withdraw written notice under paragraph (a) of this section upon determining that disqualification from participation in the matter is no longer required. A withdrawal of disqualification shall be in writing and shall be provided to the employee's supervisor and to the DAEO.

**§ 3401.104 Prior approval for outside employment.**

(a) *Prior approval requirement.* An employee, other than a special Govern-

ment employee, must obtain written approval from the DAEO through normal supervisory channels before engaging in outside employment with any person who is a "prohibited source" as that term is defined at 5 CFR 2635.203(d).

(b) *Approval of requests.* Approval under this section shall be denied only upon a determination by the DAEO that the outside activity is expected to involve conduct prohibited by statute or Federal regulations, including 5 CFR part 2635.

(c) *Definitions.* For purposes of this section, "employment" means any form of non-Federal employment or business relationship or activity involving the provision of personal services by the employee for compensation other than reimbursement of actual and necessary expenses. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee.